

### **Brief Description of Drawings**

The applicant amends the paragraph starting at line 6 of page 6 to read:

Figure 2 is a ~~side view~~ cross-sectional of the housing of Figure 1.

The applicant amends the paragraph starting at line 13 of page 6 to read:

Figure 6 is a ~~side view of the opposite side~~ perspective view of the vent stop of Figure 1.

The applicant amends the paragraph starting at line 18 of page 6 to read:

Figure 9 is a ~~top view~~ cross-sectional view of the tumbler of Figure 6.

### **Amendments to Drawings**

In Figure 1 the lettering “ B direction” has been removed.

In Figure 2 the proper cross sectional shading has been added, and the directional references “A” and “B” have been removed.

In Figure 5 the directional reference “A” has been removed..

In Figure 7 the section lines “E-E” have been removed.

In Figure 9 the proper cross sectional shading has been added.

In Figure 10 the directional reference line “C” has been removed.

In Figure 24 the proper cross sectional shading has been added.

In Figure 28 the proper cross sectional shading has been added.

## REMARKS

Claims 1-4, 9, and 14-29, have been rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has made the necessary corrections to independent claims 1, 9, 15, 20, 24, 26, and 28, and as such these claims should be allowable. In addition, claims 2-4, 14, 16-19, 21-23, 25, 27, and 29 were rejected for incorporating the indefinite limitations presented above. As previously stated the necessary corrections have been made, and as such the preceding dependent claims should be allowable also.

Claims 1-4, 9, 14, 20-24, and 26-28 have been rejected under 35 U.S.C. 102(b) as being anticipated by Brown (US 1,895,146). Applicant has amended the claims to more specifically define applicant's invention. Applicant has included a check in the amount of \$425 to cover the additional claims fee.

### **Claim 1:**

The examiner contends that claim 1 of the present invention is unpatentable under 35 U.S.C. 102(b) as being anticipated by Brown. The applicant respectfully traverses the rejection. The applicant asserts that there are significant differences between the prior art taught by Brown and the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are three main significant differences between the prior art taught by Brown and claim 1 of the present invention, (1) the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed

to four springs and (2) the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60, (3) the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between claim 1 of the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate. The prior art taught by Brown requires 4 springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a far simpler device. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The second significant difference between claim 1 of the present invention and the prior art taught by Brown is the trigger bar 17 of the prior art taught by Brown releases the stop 7 by lateral movement where the button 27 is pushed inwardly to release the tumbler 60. The prior art

taught by Brown requires more dexterity than the present invention, therefore manipulating the trigger of the prior art may be difficult for handicapped or elderly persons. The button of the present invention is a simpler device than the trigger of the prior art it would be easier for an elderly or handicap person to manipulate. Because the prior art teaches the use of a trigger bar 17 which releases the stop 7 when laterally moved unlike the present invention's button 27 which pushed inwardly to release the tumbler 60, the present invention is not anticipated by the prior art.

The third significant difference between the prior art and claim 1 of the present invention is that the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Brown teaches that the spring 11 pushes the stop 7 up with no physical connection between the spring 11 and the stop 7. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the stop 7 receives the end of the spring 11, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate the present invention.

The examiner contends that claim 9 of the present invention is barred under 35 U.S.C. 102(b) as being anticipated by Brown. The applicant respectfully traverses the rejection. The applicant asserts that there are significant differences between the prior art taught by Brown and the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are three main significant differences between the prior art taught by Brown and the present invention, (1) ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60, (2) the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs and (3) the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the present invention and the prior art taught by Brown is the ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60. The present invention differs from the prior art taught by Brown because there is no ledge 12 to wear out in the present invention. The present invention uses retaining members 24 and 25 which are molded on the tumbler to control the distance the tumbler extends, these retaining members slide through recessed tracks 22 and 23 which are provided by the side walls 14 and 15. The retaining members 14 and 25 of the present invention are superior to the ledge 12 of the prior art because the retaining members 24 and 25 are less likely to fail compared to the ledge 12 and there are two retaining members so even if one does fail then the other retaining member will

still prevent the tumbler 60 from traveling beyond the intended extension point. Because the prior art teaches the use of a ledge 12 to prevent the stop member 7 from extending beyond the intended extension point, unlike the present invention which uses two retaining members 24 and 25 to prevent the tumbler 60 from extending beyond the intended extension point, the present invention is not anticipated by the prior art.

The second significant difference between the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs.

The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate correctly. The prior art taught by Brown requires 4 springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a simpler machine and should last longer. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The third significant difference between the prior art and the present invention is that the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior

art by Brown teaches that the spring 11 pushes the stop 7 up with no physical connection between the spring 11 and the stop 7. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the stop 7 receives the end of the spring 11, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate claim 9 of the present invention.

#### **Claim 9**

The examiner contends that the present invention is unpatentable under 35 U.S.C. 102(b) as being anticipated by Brown. The applicant respectfully traverses the rejection. The applicant asserts that there are significant differences between the prior art taught by Brown and the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b). There are five primary differences between the prior art taught by Brown and the present invention, (1) ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60, (2) the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs and (3) the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60, (4) the fact that the invention taught by Brown is



intended to be a door stop where the present invention is intended to be a window sash stop, (5) the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the present invention and the prior art taught by Brown is the ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 60. The present invention differs from the prior art taught by Brown because there is no ledge 12 to wear out in the present invention. The present invention uses retaining members 24 and 25 which are molded on the tumbler to control the distance the tumbler extends, these retaining members slide through recessed tracks 22 and 23 which are provided by the side walls 14 and 15. The retaining members 14 and 25 of the present invention are superior to the ledge 12 of the prior art because the retaining members 24 and 25 are less likely to fail compared to the ledge 12 and there are two retaining members so even if one does fail then the other retaining member will still prevent the tumbler 60 from traveling beyond the intended extension point. Because the prior art teaches the use of a ledge 12 to prevents the stop member 7 from extending beyond the intended extension point, unlike the present invention which uses two retaining members 24 and 25 to prevent the tumbler 60 from extending beyond the intended extension point, the present invention is not anticipated by the prior art.

The second significant difference between the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs.

The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate correctly. The prior art taught by Brown requires 4 springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a simpler machine and should last longer. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The third significant difference between the present invention and the prior art taught by Brown is the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed and to be operated with one's fingers. The prior art taught by Brown is intended to be mounted on the floor in a similar fashion as the present invention and to be operated with one's foot. The prior art taught by Brown requires more dexterity than the present invention, therefore manipulating the trigger of the prior art may be difficult for handicapped or elderly persons. The button of the present invention is a simpler device than the trigger of the prior art it would be easier for an elderly or handicap person to manipulate. Because the prior art teaches the use of a trigger bar 17 which releases the stop 7 when laterally

moved unlike the present invention's button 27 which pushed inwardly to release the tumbler 60, the present invention is not anticipated by the prior art.

The fourth significant difference between the present invention and the prior art taught by Brown is the fact that the invention taught by Brown is intended to be a door stop where the present invention is intended to be a window sash stop. The prior art taught by Brown has a trigger which is activated with one foot by laterally moving the trigger toward the stop, and to open the door beyond the prior art the door must be elevated high enough so that the trigger is not laterally moved. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed and the top face is flush with the surface of the window sash. The prior art taught by Brown would create a problem if mounted on a window sash because the window could only be opened to the point that the trigger was laterally moved after that point the trigger would release the stop and the stop would prevent the window from being opened further. The present invention does not have this issue, a window outfitted with the present invention will have no difference in the amount which it can be opened because the present invention is mounted flush with the window sash and because the button which releases the tumbler on the present invention must be pushed as opposed to slid laterally. Further the button of the present invention is intended to be flush with the surface of the present invention, unlike the trigger of the prior art taught by Brown, which must not be flush to allow one to operate the trigger with one's foot. Because the prior art is intended to be a door stop, unlike the present invention which intended to be a window sash stop, the present invention is not anticipated by the prior art.

The fifth significant difference between the prior art and the present invention is that the

stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Brown teaches that the spring 11 pushes the stop 7 up with no physical connection between the spring 11 and the stop 7. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the stop 7 receives the end of the spring 11, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate the present invention.

#### **Claim 24**

The applicant asserts that there are significant differences between the prior art cited by the examiner and claim 24 the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b) by the prior art taught by Brown. There are two primary differences between the prior art taught by Brown and the present invention, (1) the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs, and (2) the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60. Given these differences the prior art does not

anticipate the present invention.

The first significant difference between the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate correctly. The prior art taught by Brown requires 4 springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a simpler machine and should last longer. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The second significant difference between the present invention and the prior art taught by Brown is the trigger bar 17 of the prior art taught by Brown releases the stop 7 by laterally movement where the button 27 is pushed inwardly to release the tumbler 60. The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed and to be operated with one's fingers. The prior art taught by Brown is intended to be mounted on the floor in a similar fashion as the present invention and to be operated with one's foot. The prior art taught by Brown requires more dexterity than the

present invention, therefore manipulating the trigger of the prior art may be difficult for handicapped or elderly persons. The button of the present invention is a simpler device than the trigger of the prior art it would be easier for an elderly or handicap person to manipulate. Because the prior art teaches the use of a trigger bar 17 which releases the stop 7 when laterally moved unlike the present invention's button 27 which pushed inwardly to release the tumbler 60, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate the present invention.

**Claim 29:**

The applicant asserts that there are significant differences between the prior art cited by the examiner and claim 29 of the present invention; thus the present invention is not anticipated under 35 U.S.C. 102(b) by the prior art taught by Brown. There are three primary differences between the prior art taught by Brown and the present invention, (1) ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 21, (2) the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs and (3) the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 21 of the present invention has a recessed portion 38 for receiving one end 39 of the spring 33. Given these differences the prior art does not anticipate the present invention.

The first significant difference between the present invention and the prior art taught by

Brown is the ledge 12 of the housing controls the range of the stop member 7 where the retaining members 24 and 25 of the present invention govern the amount of travel permitted to the tumbler 21. The present invention differs from the prior art taught by Brown because there is no ledge 12 to wear out in the present invention. The present invention uses retaining members 24 and 25 which are molded on the interior of the side walls 14 and 15 and mesh with recessed tracks 22 and 23 which are molded onto the tumbler 21. The retaining members 24 and 25 of the present invention are superior to the ledge 12 of the prior art because the retaining members 24 and 25 are less likely to fail compared to the ledge 12 and there are two retaining members so even if one does fail then the other retaining member will still prevent the tumbler 21 from traveling beyond the intended extension point. Because the prior art teaches the use of a ledge 12 to prevents the stop member 7 from extending beyond the intended extension point, unlike the present invention which uses two retaining members 24 and 25 to prevent the tumbler 21 from extending beyond the intended extension point, the present invention is not anticipated by the prior art.

The second significant difference between the present invention and the prior art taught by Brown is the present invention accomplishes a task similar to the intended purpose of the prior art taught by Brown, but accomplishes the task using one spring as opposed to four springs.

The present invention is intended to be imbedded in a window sash in a recess so that only the top face of the present invention is exposed therefore the present invention is intended to be robust and long lasting. The present invention only requires one spring 33 to operate correctly. The prior art taught by Brown requires 4 springs to operate correctly, which are spring 11 spring 15 spring 16 and spring 19. If any one of the springs of the prior art taught by Brown fails then

the prior art will be rendered inoperable. The fewer moving parts that a machine has, the fewer number of parts there are to wear out and the longer the machine should last. Because the present invention has fewer springs than the prior art taught by Brown, the present invention is a simpler machine and should last longer. Because the prior art teaches that the use of four springs, unlike the present invention which teaches the use of only one spring, the present invention is not anticipated by the prior art.

The third significant difference between the prior art and the present invention is that the stop 7 taught by Brown fails to receive the end of the spring 11 where the tumbler 60 of the present invention has a recessed portion 38 for receiving one end 38 of the spring 33. The prior art by Brown teaches that the spring 11 pushes the stop 7 up with no physical connection between the spring 11 and the stop 7. The present invention teaches a tumbler 60 with a recessed portion 38 which receives one end 38 of the spring 33 so that the spring and tumbler 60 are physically connected. The physical connection between the tumbler and spring give the present invention an advantage over the prior art. Because the prior art fails to teach that the stop 7 receives the end of the spring 11, unlike the present invention where the tumbler 60 has a recessed portion 38 for receiving one end 38 of the spring 33, the present invention is not anticipated by the prior art.

For the reasons given above the prior art taught by Brown does not anticipate claim 29 of the present invention.

The examiner rejected claims 15-19 and 25 under 35 U.S.C. 103(a) as being unpatentable over Brown as applied to claims 1-4, 9, 14, 20-24, and 26-28, and in further view of Lindstrom et



al.

As for claim 15, according to MPEP 2143.01 III. “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills* 16 USPQ 2d 1430. In the present application Examiner avers that it would be obvious to modify the stop member 7 of Brown with pins 41 of Lindstrom. In Lindstrom, latch member 31 carries pins 41, which are engaged in slots 40, formed in opposing walls of housing 27 to stabilize the pivotal movement of latch member 31. There is no teaching or suggestion in Brown about adding lateral support members to further stabilize stopping member 7.

For the reasons given above the prior art taught by Brown in further view of Lindstrom does not render the present invention obvious.

As for claim 25 the examiner avers that Brown in view of Lindstrom would render the applicants invention obvious. In Lindstrom, pins 41 are located on latch member 31. However, in the applicants present invention the tracks are located on the tumbler, and the retaining members are located on the housing. There is no teaching or suggestion of having slots 40 formed on latch member 31, and having lateral pins 41 formed on housing 27 of the Lindstrom invention.

For the reasons given above the prior art taught by Brown in further view of Lindstrom does not render the present invention obvious.

As for claims 1-4, 9, 14, 20-24, and 26-28, according to MPEP 2143.03 “if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is obvious, *In re Fine*, 5 USPQ 2d 1596.

The examiner rejected claim 29 under 35 U.S.C. 103(a) as being unpatentable over Brown as applied to claims 1-4, 9, 14, 20-24, and 26-28 above, and in further view of Charlton.

As for claim 29, the examiner avers that Brown in view of Charlton would render the applicants invention obvious. It would not be obvious to one ordinarily skilled in the art to implement a spring as Charlton with the Brown invention. There is nothing in Brown that teaches or suggests that a different type of spring may be used. The spring in Brown is set under stopping member 7. The Charlton spring is adjacent to stopping member 34 set around a protrusion located on a side surface of stopping member 34. To add this type of spring would change the configuration of the Brown invention, because one would have to add a protrusion to hold the circular ring of the spring as in Charlton. In addition, the Charlton spring configuration, if implemented with the Brown invention, would not necessarily increase the upward force of the stopping member in Brown, as the Examiner avers. The Brown invention implements a plate spring and as such if one wanted to increase the upward force of the spring one could simply use a similar spring with higher tension.

For the reasons given above the prior art taught by Brown in further view of Charlton does not render the present invention obvious.

The applicant has amended the drawing, specifically applicant has amended Figures 1, 2, 7, 9, 24, and 28.

In Figure 1 applicant has removed the lettering "B direction" to better define the present invention.

In Figure 7 applicant has removed the section lines "E-E" to better define the present invention.

In Figures 2, 9, 24, and 30 applicant has removed the improper cross-sectional shading, and has replaced it with the proper cross-sectional shading, i.e. plastic.

### **CONCLUSION**

For the foregoing reasons, applicant's claims are patentable over the cited prior art and the application should be in condition for allowance.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that the foregoing Response was mailed by first class mail,  
postage prepaid, in an envelope addressed to the Commissioner for Patents  
P.O. Box 1450 Alexandria, VA 22313-1450 on this 16<sup>th</sup> day of March, 2006.



A handwritten signature in cursive script, appearing to read "Thomas A. O'Rourke".

Thomas A. O'Rourke